

REMARKS

Claims 1-14, 21 and 22 have been examined. Claims 15-20 have been canceled, without prejudice, pursuant to a restriction requirement. Applicant gratefully acknowledges the indicated allowability of claims 7 and 10. Claim 23 which was added by way of preliminary amendment on December 16, 2004 is also pending. New claims 24 and 25, which correspond to allowable claims 7 and 10 have been added, and claims 7 and 10 have been canceled.

Initial matters

Counsel for applicant wishes to note that the office action failed to examine claim 23 which was added in a preliminary amended filed December 16, 2004. It is respectfully requested that claim 23 be examined with claims 1-14, 21 and 22.

Election/Restrictions

Claims 15-20 have been canceled, without prejudice, pursuant to a restriction requirement. Applicant reserves the right to file claims 15-20 in a divisional application.

Claim Rejections – 35 USC 102

Claims 1, 4-9, 11-14 and 21 have been rejected under 35 USC 102 as being anticipated by Alferness. This rejection is respectfully traversed.

As presently pending, all independent claims require the step of “permitting the patient to inhale and exhale through the valve system.” As such, the claimed methods are used in conjunction with a breathing person.

In contrast, the Alferness patent describes methods for performing CPR. In such cases, the patient is not breathing. Hence, it is impossible for Alferness to teach the method claims in the present invention. For example, the Alferness patent describes the traditional techniques of performing CPR where, “the person reproduces the pulmonary function by

breathing into the patient's mount to inflate the patient's lungs through the airway." Col. 1, lines 23-26.

Similarly, the Alferness patent describes the use of a bellows that is compressed to ventilate the non-breathing patient. While the Alferness patent does describe that "valve apparatus 22 functions to limit the pressure that is applied to the lungs to a value that will result in a desired intrathoracic pressure" (col. 4, lines 48-51), such an application of pressure to the lungs is performed by compressing a bellows, not from a breathing patient. As such, it fails to describe a method where the patient inhales through the valve system. Further, while it is true that when bellows 10 returns to its rest position, the patient's lungs deflate (see col. 4, lines 61-67), the claimed invention requires the patient to exhale, not to have a bellows remove air from the lungs. Hence, claims 1, 4-9, 11-14 and 21 which all include the limitation of permitting the patient to inhale and exhale through the valve system are distinguishable without amendment. Hence, it is respectfully requested that the section 102 rejection of these claims be withdrawn.

Claim Rejections – 35 USC 103

Claims 2, 3, 10 and 22 have been rejected under 35 USC 103(a) as being anticipated by Alferness. These claims depend from independent claims which require a patient to inhale and exhale through a valve system. Hence, these claims are distinguishable for at least the reasons previously recited. As such, is it respectfully requested that the section 103(a) rejection of these claims be withdrawn.

Allowable Subject Matter

Applicant's gratefully acknowledge the indicated allowability of claims 7 and 10. Accordingly, new claims 24 and 25 have been added to rewrite these claims in independent form and are in condition for allowance.

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Reply to Office Action of August 25, 2005


PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


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